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ORIGINAL

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

MAUREEN L. KRAUSE, : CIVIL NO. 1:00-CV-1922  
PLAINTIFF :

VS. :

GERALD K. KRAUSE, SR., :  
DEFENDANT : (Magistrate Judge Smyser)

FILED  
HARRISBURG, PA  
SEP 04 2002

MARY E DANHEA, C  
Deputy Clerk

**PLAINTIFF'S BRIEF IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT**

The Defendant caused the within matter to be transferred from the Court of Common Pleas of Lebanon County, Pennsylvania to the United States District Court for the Middle District of Pennsylvania. However, this matter contains no federal questions, no diversity of citizenship and, in short, it is respectfully submitted that there is no jurisdiction in the United States District Court for the Middle District of Pennsylvania.

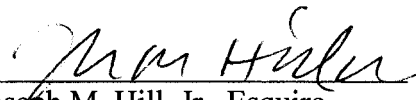
“Even when brought under guise of federal question action, suit whose substance is domestic relations generally will not be entertained in federal court.” *Firestone v. Cleveland Trust Co.*, C.A. 6 (Ohio) 1981, F.2d 1212.

“Whole subject of domestic relations belongs to laws of state and not to laws of United States; thus, original federal jurisdiction of suits primarily involving domestic relations is improper, notwithstanding that parties are residents of different states, and such disputes do not present a federal question, notwithstanding allegations of sexual discrimination.” *Wilkins v. Rogers*, C.A. 4 (S.C.) 1978, 581 F.2d 399.

“Where constitutional claim arising out of domestic relations dispute is frivolous, the action should be dismissed as impermissible attempt to embroil federal courts in matrimonial matters best left to states.” *Hernstadt v. Hernstadt*, C.A. 2 (N.Y.) 1967, 373 F.2d 316.

Pursuant to the above cited authority, the undersigned respectfully requests that this matter be dismissed and remanded to the Court of Common Pleas of Lebanon County, Pennsylvania as it is only a domestic relations case.

Dated: August 30, 2002

  
Joseph M. Hill, Jr., Esquire  
Attorney for Plaintiff  
124 South 8<sup>th</sup> Street  
Lebanon, PA 17042  
(717) 272-7171  
ID #24984

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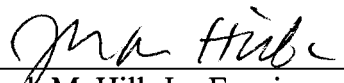
**CERTIFICATE OF SERVICE**

I hereby certify that I have, this day, served a copy of the foregoing document upon the person indicated below by depositing the same with the United States Postal Service, first class mail, postage pre-paid, addressed as follows:

Jeffrey R. Schott, Esquire  
Ira H. Weinstock, P.C.  
800 North Second Street  
Harrisburg, PA 17102

Attorney for Defendant

Dated: August 30, 2002

  
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